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FILED
DISTRICT COURT OF GUAM
MAR 28 2007
MARY L.M. MORAN
CLERK OF COURT

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE TERRITORY OF GUAM**

10
11 UNITED STATES OF AMERICA,)
12)
13 Plaintiff,)
14 vs.)
15 BRIAN WILLIAM ELM,)
16 Defendant.)

CRIMINAL CASE NO. 07-00026

INDICTMENT

**FALSE DECLARATION
BEFORE THE COURT**
[18 U.S.C. § 1623]
(Counts 1 through 3)

17 **THE GRAND JURY CHARGES:**

18 **COUNT I - FALSE DECLARATION BEFORE THE COURT**

19 1. On or about May 15, 2006, in the District of Guam, BRIAN WILLIAM ELM, while
20 under oath as a witness in a case then being tried before the United States District Court for the
21 said District, to-wit: United States v. Brian William Elm, Cr. No. 05-00053, did knowingly make
22 a false material declaration, to-wit:

23 2. At the time and place aforesaid, the Court and Jury were engaged in the trial of the
24 aforementioned case wherein BRIAN WILLIAM ELM, the defendant therein, was charged in
25 Count I of the Third Superseding Indictment with Conspiracy to Distribute Methamphetamine
26 Hydrochloride. It was a matter material to said trial to determine whether BRIAN WILLIAM
27 ELM had conspired with others to distribute methamphetamine as alleged in Count 1.
28

3. At the time and place alleged, BRIAN WILLIAM ELM, while under oath, did knowingly declare before said Court and Jury with respect to the aforesaid material matter, as follows:

Q. Have you ever received packages in the mail from Jonathan Canovas that contained controlled substances in them?

A. No.

4. The aforesaid underscored testimony of BRIAN WILLIAM ELM, as he then and there well knew and believed, was false in that, between the dates alleged in Count I of the Third Superseding Indictment, he did receive controlled substances in the mail from Jonathan Canovas.

ALL IN VIOLATION of Title 18, United State Code, § 1623.

COUNT II - FALSE DECLARATION BEFORE THE COURT

5. The grand jury realleges and incorporates herein Paragraphs 1 and 2.

6. At the time and place alleged, BRIAN WILLIAM ELM, while under oath, did knowingly declare before said Court and Jury with respect to the aforesaid material matter, as follows:

Q. Now, you are charged in this case; why haven't you pleaded guilty?

A. Because I'm not involved.

Q. What do you mean by you're not involved?

A. I just – I didn't have anything to do with this.

7. The aforesaid underscored testimony of BRIAN WILLIAM ELM, as he then and there well knew and believed, was false in that, between the dates alleged in Count I of the Third Superseding Indictment, he did conspire with others to distribute controlled substances.

ALL IN VIOLATION of Title 18, United State Code, § 1623.

COUNT III - FALSE DECLARATION BEFORE THE COURT

8. The Grand Jury realleges and incorporates herein Paragraphs 1 and 2.

1 9. At the time and place alleged, BRIAN WILLIAM ELM, while under oath, did
2 knowingly declare before said Court and Jury with respect to the aforesaid material matter, as
3 follows:

4 Q. Now Mr. Aponik has said that shortly before you went to
5 jail that you introduced him to Mr. Cruz and put them together
6 so that they could continue this drug operation; is that true?

7 A. That's not true.

8 10. The aforesaid underscored testimony of BRIAN WILLIAM ELM, as he then and
9 there well knew and believed, was false in that, between the dates alleged in Count I of the Third
10 Superseding Indictment, he did introduce John Cruz to Eric Aponik so that the conspiracy to
11 distribute controlled substances as alleged in Count I could continue.

12 ALL IN VIOLATION of Title 18, United State Code, § 1623.


13 Dated this 28th day of March, 2007.

14 A TRUE BILL.

15 
16 Foreperson

17 LEONARDO M. RAPADAS
18 United States Attorney
19 Districts of Guam and CNMI

20 By: 
21 KARON V. JOHNSON
22 Assistant U.S. Attorney

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24 JEFFREY J. STRAND
25 First Assistant U.S. Attorney
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